

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA


The Court granted Plaintiff, a state prisoner proceeding pro se, leave to proceed in forma pauperis (IFP) in this civil rights action. Upon review of the allegations in the complaint, the Court found the complaint fails to state a claim upon which relief may be granted because Plaintiff seeks a declaratory judgment that his conviction is unlawful and immediate release from confinement. Such relief is available only in federal habeas corpus. Thus, the Court dismissed the complaint without prejudice to Plaintiff's filing a habeas petition after exhausting state remedies.

The Clerk of the Court shall serve a copy of this Order on

1 Plaintiff and on the Court of Appeals.

2 IT IS SO ORDERED.

3 DATED: 11/6/2012

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CLAUDIA WILKEN
United States District Judge